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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/001,565

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Anja Drucks

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EXAMINER

KIM, JENNIFER M

ART UNIT

PAPER NUMBER

1617

NOTIFICATION DATE

DELIVERY MODE

02/26/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/001,565	<b>Applicant(s)</b> DRUCKS ET AL.	
	<b>Examiner</b> Jennifer Kim	<b>Art Unit</b> 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-32 and 34-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-32, 34-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/18/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

The response filed December 18, 2007 have been received and entered into the application.

### ***Response to Arguments***

Applicants' arguments filed December 18, 2007 have been fully considered but they are not persuasive. Applicants argue that all of the present independent claims are drawn to the wipe consists of a water-jet impressed nonwoven material and that the wipe exhibits a uniform sequence of elevations and indentations in the nonwoven material. Applicants argue that in the present application, the structuring of the wipe by means of water jets produces a uniform sequence of elevations and indentation since the nonwoven material which permits, as a result of the elevation, both better access to indentations in the human skin and also increased soil-uptake capacity, leading overall to a significantly improved cleaning performance. This is not found persuasive because Ullmann teaches that water jet bonding is well known in the art to soften a non-woven material. (page 578, right-hand column). Thus, it would have been obvious to one of ordinary skill in the art to use such material for the softness. Applicants argue that such

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water-jet consolidation improves cleanness. However, the motivation to combine need not be Applicant's' motivation to invent. *In re Dillon* 16 USPQ 2d 1897, (Fed. Cir. 1990).

Applicants argue that GOTT neither teaches nor suggests that the towelettes disclosed therein have a surface structure, let alone a uniform sequence of elevations and indentations in the non-woven material. Applicants further argue that the Examiner has not offered any explanation how the mentioning of "sufficient loft" in GOTT "contemplates the limitation of uniform sequence of elevation" and that the mentioning of the towelettes having abrasiveness and porosity and sufficient abrasivity encompasses the limitation of indentation in the fabric. This is not found persuasive because Gott teaches "porosity" and "loft". Clearly, such porosity would be uniform to provide uniform drainage. Such porosity, it is argued, would read on Applicant's sequence of elevations, and indentations, especially when coupled with the teaching of "loft". The Examiner further notes that Ullmann teaches that "creping" is well-known in the art to soften non-woven materials. (page 582, right-hand column). Thus, it would be obvious to one of ordinary skill in the art to crepe the non-woven material to soften it. Such creping provides the claimed uniform sequence of elevations and indentations.

Applicants argue that present claim 22 recites the impregnation of a liquid which has a water content of less than 0.5% by weight. But, neither GOTT nor ULLMANN teaches an impregnation liquid with a water content of less than 0.5% by weight; they teach away therefrom. This is not found persuasive because Gott teaches (paragraph 20) that the water phase **may** range in an amount about 80 to about 99%. That is water can be in any amount. It is noted that, in table 3, Gott discloses water at 75%, lower

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than the above recited range. This further suggests that water can be in lower amounts than the lower end of the above range cited. Further, Gott (paragraph 7) teaches that there is problem with liquid formulations which do not evenly distributed over an applied surface skin. It is argued that this problem would suggest delivering the active in an essentially anhydrous, low viscosity vehicle.

Applicants argue that present claim 23 recites the impregnation liquid is alcohol-based but GOTT teaches away since it teaches at least about 80% by weight of water cannot be alcohol based. This is not found persuasive because Gott et al. teach that fatty alcohols can be employed in the composition and this limitation meets Applicants' broad range of alcohol-based liquid.

Applicants argue that present claim 24 recites that the impregnation liquid is free of oil but GOTT's examples 1 and 3-8 contains water except Example 2. This is not found persuasive because that teaching of a single example 2 from GOTT is sufficient to motivate on of ordinary skill in the art to employ oil free impregnation liquid because GOTT et al. illustrate and exemplifies as oil free impregnated liquid as an actual working example.

Applicants argue that present claims 34 and 35 recite that the nonwoven material is from 5% to 50% (10% to 25%) thicker than an identical nonwoven material which has not been water-jet impressed. This is not found persuasive because to optimize the thickness, tear strength, expandability of the fibers to be used are all deemed obvious because Gott et al. teach that the characteristic of having sufficient wet strength for use,

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sufficient abrasivity, sufficient loft and porosity, sufficient thickness, appropriate size and non-reactive with components of the impregnating composition in general.

In view of the above Office Action of August 14, 2007 is deemed proper, remains in force and is incorporated herein.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 21-32 and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gott et al. (US 2002/0071859A1) in view of Ullmann's Encyclopedia of Industrial Chemistry Fifth Completely Revised Edition, Vol. A17, of record (Ullmann).

Gott et al. teach cosmetic towelettes composition comprising a water insoluble substrate and a fluid cosmetic composition impregnated into the substrate. (abstract). Gott et al. teach that the composition has a viscosity ranging from about 1 cps to 10,000 cps. (abstract). Gott et al. teach that the composition have a viscosity ranging preferably from about 5 to about 1,000 cps, optimally from about 5 to about 500 cps. ([0019]). The range encompasses Applicants' range set forth in claims 21, 39 and 40. Gott et al. teach that towelettes is impregnated with sunscreen agent delivers the sunscreen to the skin in a highly efficient manner. ([0019]). Gott et al. teach that water and a sunscreen phase constitute the composition and the water phase range in

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amount from about 80 to about 99%, preferably from about 85 to about 95%. This water content encompasses Applicants' amount set forth in claim 31. Gott et al. teach that small amounts of emollients such as silicone, silicone oil and fatty alcohols can be employed in the composition ([0038], [0040]). Gott et al. teach that ingredients such as vitamin C (antioxidant), fragrance (perfume), herbal extracts, vitamins including vitamin C (antioxidant), softener, glycolic acid (moisturizer) and anti-irritant agents can be also employed in the composition. ([0023], [0045], [0058], [0072]). Gott et al. teach that non-woven article is preferred as a towelette. ([0055]). Gott et al. teach that the towelettes can comprising two or more layers, each having a different texture and abrasiveness and can manufactured to have different colors. ([0058]). Gott et al. teaches various nonwoven substrates can be employed in the composition. ([0051]-[0055]). Gott et al. teach that nonwoven fibers such as 100% rayon (viscose fiber) can be employed in the towelette composition. ([0054]). Got et al. teach that the a wide variety of materials can be used as towelette having characteristics of having sufficient wet strength for use, sufficient abrasivity, sufficient loft and porosity, sufficient thickness, appropriate size, and non-reactive with components of the impregnating composition. ([0047]).

Gott et al. do not teach the wipe exhibiting a uniform sequence of elevations and indentations, specific formulations such as emulsion or microemulsion, amount ratios and thickness, tear strength, expandability and the thickness of the fiber.

Ullmann teaches viscose fibers have increased used in wet-laid nonwoven and in water entanglement process of manufacturing nonwoven that are environmentally

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friendly because the viscose fibers are readily degradable. (page 568, under Viscose fibers).

It would have been obvious to one of ordinary skill in the art to modify the Gott et al.'s towelette product particularly employing viscose fiber such as rayon because Gott et al. teach that various synthetic materials can be employed as a substrate for the towelette product including rayon and because viscose fiber are environmentally friendly as taught by Ullmann. One would have been motivated to employ particularly employ viscose fiber generally disclosed by Gott et al. in order to achieve a readily degradable environmental friendly towelette product as taught by Ullmann. With regard to the wipe exhibiting a uniform sequence of elevations and indentations, Gott et al. teach that the towelettes have a different texture and abrasiveness and sufficient abrasivity, sufficient loft and porosity. The teaching of the towelette having sufficient loft contemplates the limitation of uniform sequence of elevation and the towelette having abrasiveness and porosity and sufficient abrasivity encompasses the limitation of indentation in the fabric.

The amounts of active agents to be used, the pharmaceutical forms, e.g., emulsions or microemulsion are all deemed obvious since they are all within the knowledge of the skilled pharmacologist and represent conventional formulations and modes of administration. Further, to optimize the thickness, tear strength, expandability of the fibers to be used are deemed obvious because Gott et al. teach that the characteristics of having sufficient wet strength for use, sufficient abrasivity, sufficient loft and porosity, sufficient thickness, appropriate size, and non-reactive with components of the impregnating composition in general. Therefore, no unobviousness

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is seen in the claimed optimization of these parameters because Gott et al. teaches the sufficient requirement of the parameters of the fibers are general.

For these reasons the claimed subject matter is deemed to fail to patentably distinguish over the state of the art as represented by the cited references. The claims are therefore properly rejected under 35 U.S.C. 103.

### ***Information Disclosure Statement***

The listing of reference "New Technologies and Developments in Water Jet Consolidation" in the IDS (information disclosure statement) filed December 18, 2007 has not been considered because the reference is not in English and Applicants have not provided summary in English nor an English abstract.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kim whose telephone number is 571-272-0628. The examiner can normally be reached on Monday through Friday 6:30 am to 3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer Kim/

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Primary Examiner, Art Unit 1617

February 14, 2008